

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

STEVEN DECOSTA IN HIS) CIVIL NO. 03-00598 DAE-LEK
REPRESENTATIVE CAPACITY AS)
CHAIRPERSON OF THE BOARD OF)
TRUSTEES OF UNITED PUBLIC)
WORKERS, AFSCME, LOCAL 646,)
AFL-CIO,)
)
Plaintiffs,)
)
vs.)
)
GARY RODRIGUES,)
)
Defendant.)

**REPORT OF SPECIAL MASTER ON PLAINTIFFS'
SUPPLEMENTAL MEMORANDUM IN SUPPORT OF REQUEST FOR COSTS**

On May 16, 2008, Plaintiffs Steven DeCosta in His Representative Capacity as Chairperson of the Board of Trustees of United Public Workers, AFSCME, Local 646, AFL-CIO, Mutual Aid Fund Trust, Real Party in Interest United Public Workers, AFSCME, Local 646, AFL-CIO ("collectively Plaintiffs") filed their Motion for (1) Pre-Judgement Interest, (2) Attorney's Fees, and (3) Costs ("Motion"), seeking an award of \$94,707.20 in pre-judgment interest, \$72,540.46 in attorneys' fees, and \$4,491.22 in costs. On August 8, 2008, this Court issued its Report of Special Master regarding the Motion ("Report"). The Court found that, *inter alia*, Plaintiffs' costs were not compensable because they failed to provide supporting documentation as required by the Local Rules. The Court gave Plaintiffs leave to file supplemental

documentation by August 18, 2008.

On August 18, 2008, Plaintiffs filed the instant Supplemental Memorandum in Support of Request for Costs ("Supplemental Request"), seeking \$2,733.89¹ in costs. The Court gave Defendant Gary Rodrigues ("Defendant") until September 3, 2008 to file a response to the Supplemental Request, but Defendant did not do so.

The Court finds this matter suitable for disposition without a hearing pursuant to Rule LR7.2(d) of the Local Rules of Practice of the United States District Court for the District of Hawaii ("Local Rules"). After reviewing the Supplemental Request and the relevant legal authority, the Court FINDS and RECOMMENDS that Plaintiffs' Supplemental Request be GRANTED. The Court RECOMMENDS that the district judge award Plaintiffs \$2,733.89 in costs.

DISCUSSION

The district judge ruled that Plaintiffs are entitled to an award of attorneys' fees and costs pursuant to 29 U.S.C. § 1132(g)(1), which provides: "In any action . . . by a participant, beneficiary, or fiduciary, the court in its discretion may allow a reasonable attorney's fee and costs of

¹ There were some typographical errors in Plaintiffs' summary of expenses. [Supplemental Request, Aff. of Andrew D. Stewart ("Stewart Aff."), Exh. B.] The Court has adjusted the amount of Plaintiffs' request accordingly.

action to either party." 29 U.S.C. § 1132(g)(1). Plaintiffs seek the following costs:

Fees for the clerk	\$ 164.00
Fees for service of summons and subpoena	\$ 642.00
Fees for the court reporter for all or any part of the transcript necessarily obtained for use in the case	\$1,383.54
Fees for printing	<u>\$ 544.35</u>
TOTAL	\$2,733.89

[Supplemental Request at 2.]

I. Fees of the Clerk

Plaintiffs incurred \$164.00 on October 31, 2003 for the filing fee and certification fee for the Complaint. Plaintiffs submitted processed checks in support of these expenses. [Exh. C to Stewart Aff. at 1-2.] The Court FINDS that these expenses were reasonable and were necessarily incurred in this case and are therefore compensable. The Court RECOMMENDS that the district judge grant Plaintiffs' request for fees of the clerk in full.

II. Service Fees

Plaintiffs' counsel incurred the following fees for service of process:

11/24/03	Gary Rodrigues - Complaint & Summons	\$107.00
11/7/06	UPW - subpoena	\$350.00
12/11/06	Albert Hewitt - subpoena (attempt)	\$ 35.00
12/11/06	Albert Hewitt - subpoena (completed)	<u>\$150.00</u>
	Total	\$642.00

[Id. at 3-7.] Plaintiffs submitted invoices for these fees, as well as copies of checks paid for the invoices. [Id.] The Court

FINDS that these expenses were reasonable and were necessarily incurred in this case and are therefore compensable. The Court RECOMMENDS that the district judge grant Plaintiffs' request for service fees in full.

III. Court Reporter Fees

Plaintiffs' counsel incurred the following fees for deposition transcripts:

3/6/07	Deposition of Albert Hewitt	\$ 674.41
9/28/07	Deposition of Steven De Costa	\$ 459.31
10/16/07	Deposition of Dayton Nakanelua	\$ 249.82
	Total	\$1,383.54

[Id. at 8-13.] Plaintiffs submitted invoices for these fees.

[Id.] The Court FINDS that these expenses were reasonable and were necessarily incurred in this case and are therefore compensable. The Court RECOMMENDS that the district judge grant Plaintiffs' request for court reporter fees in full.

IV. Copying Fees

Plaintiffs' counsel incurred \$544.35 for in-house copying costs throughout this case. Plaintiffs submitted a list identifying all of the documents copied, the date of the copies, and the number of pages copied. [Exh. A to Stewart Aff.] The Supplemental Request reflects a charge of \$0.15 per page. Plaintiffs' counsel eliminated copies made for the use and convenience of Plaintiffs' and counsel. [Stewart Aff. at ¶ 5.] The Court FINDS that these expenses were reasonable and were necessarily incurred in this case and are therefore compensable.

See Local Rule LR54.2(f)4. ("The practice of this court is to allow taxation of copies at \$.15 per page The cost of copies obtained for the use and/or convenience of the party seeking recovery and its counsel is not allowable."). The Court RECOMMENDS that the district judge grant Plaintiffs' request for copying fees in full.

CONCLUSION

In accordance with the foregoing, this Court, acting as Special Master, FINDS and RECOMMENDS that Plaintiffs' Supplemental Request, filed August 18, 2008, be GRANTED. The Court RECOMMENDS that the district judge award Plaintiffs \$2,733.89 in costs.

IT IS SO FOUND AND RECOMMENDED.

DATED AT HONOLULU, HAWAII, September 4, 2008.



/S/ Leslie E. Kobayashi
Leslie E. Kobayashi
United States Magistrate Judge

STEVEN DECOSTA, ETC., ET AL. V. GARY RODRIGUES; CIVIL NO 03-00598 DAE-LEK; REPORT OF SPECIAL MASTER ON PLAINTIFFS' SUPPLEMENTAL MEMORANDUM IN SUPPORT OF REQUEST FOR COSTS